

REMARKS

Claims 1-11, 13-23, and 25-28 are in the case and presented for consideration.

Initially, applicants note that claim 12 was previously canceled. However, the Office Action indicates that claim 12 is pending and rejected.

Claim 1 has been amended only to correct grammatical errors. Applicants note that in the amendment of claim 1 dated November 17, 2004, a comma was inadvertently left out between "rechargeable device" and "and means for receiving the data from a remote source..." Since that claim appears to have been entered, claim 1 has now been amended to include the comma as follows:

"a charger comprising coupling means for coupling to a rechargeable device, wherein the coupling means includes charging means for providing an electrical charge to the rechargeable device and means for transferring data to the rechargeable device, [[and]]  
means for receiving the data from a remote source"

This amendment is made to clarify that the "means for receiving the data from a remote source" is not part of the coupling means. Applicants believe the claim was previously confusing without the comma inserted in the proper location. Applicants respectfully request that the Office enter claim 1, as amended, at the very least to place the claims in better form for appeal. The word "selectably" was also changed to "selectively" for grammatical correction only. Claim 1 has only been amended as to form. No substantive changes have been made. Accordingly, applicants are entitled to a full scope of protection under the Doctrine of Equivalents.

Claims 1-3, 5-15, 17-21, and 25 were rejected under 35 U.S.C. 103(a) as being obvious from U.S. Patent 5,689,825 to Averbuch in view of U.S. Patent 6,496,692 to Shanahan.

Applicants respectfully submit that the Office has failed to establish a *prima facie* case of obviousness for the following reasons.

First, independent claims 1, 7, and 15 recite at least one limitation, which is not fully addressed by the Office. As the Office is no doubt aware, *all* limitations of a claim must be considered meaningful, and, "the PTO must consider all claim limitations when determining patentability of an invention over the prior art." *In Re Lowry*, 32 USPQ2d 1031, 1034 (Fed Cir. 1994). To meet the burden of establishing a *prima facie* case of obviousness, the Office must explain how the rejected claims are made obvious by pointing out where the specific limitations of the claims are found in the prior art. *Ex Parte Naoya Isoda*, Appeal No. 2005-2289, Application 10/064,508 (Bd. Pat. App. & Inter.2005). The Office must also explain the rejection with reasonable specificity. *Ex parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989). In regard to claim 1, the Office has not explained what element of the prior constitutes a "means for providing the remote source with notification..." That is, the Office has not stated which elements of the cited reference constitute this claimed "means". Also, the Office does not explain how notification is provided. It is not applicants burden to guess how the cited references are construed and which elements of the prior art are considered to teach or suggest the claimed elements and limitations. Claims 7 and 15 recite substantially similar elements and limitations, and the same reasoning therefore applies.

Moreover, independent claims 1, 7, and 15 recite at least one limitation not taught or suggested by the prior art. In particular, claim 1 recites a charger system comprising:

"means for providing the remote source with notification as to when the charger is not available and when the charger is available for receiving the data from the remote source"

None of the cited references teach or suggest this limitation. The Office states:

"The initiation of the software download by the charger implies that the charger is available for download and when the flag is set and the download is not initiated by the charger further implies that the charger is not available for download due to the activity present on the network connection to the charger."

As explained above, it is not clear what elements of the cited reference are to correspond to the claimed "means for providing the remote source with notification..." However, as best as applicants can understand, the Office mentions that the charger is available or the charger is not available and therefore, the Office appears to suggest that the inactivity of the charger is somehow related to notification. Applicants respectfully disagree.

Although downloading may not be available during peak times of network activity (see col. 5, lines 16-20), there is no "means for providing the remote source with notification as to when the charger is not available". In fact, communications are not initiated with the server until downloading is available (after peak times or during quiet periods during the day) (col. 5, lines 19-23). Communications are *only* initiated when downloading is available (after peak times or during quiet periods during the day). Communications are therefore *not* initiated when downloading is not available (peak times without quiet periods). Communications with the server are only initiated based on the best time for *establishing* communications. (col. 5, lines 29-32). The setting of the flag and the decision to initiate or to not initiate downloading by the charger in response to the flag being set is made independently of the server. The server is not required to know when the flag is set or when downloads are not initiated. The server only

needs to be notified when downloads are initiated by the charger because the charger requests the download from the server. In other words, the server does not expect any sort of communication from the battery charger software downloader 108, and therefore, does not have any notification when the charger is inactive and not downloading. The server must at least expect communication from the charger based on the flag being set in order for the inactivity of the charger to constitute some form of notification. Therefore, it is clear error to suggest that the inactivity of the charger (i.e., download is not initiated by the charger implying that the charger is not available for download) is related to notification or a means for providing the remote source with notification as to when the charger is not available.

The remaining rejected claims depend from independent claims 1, 7, and 15, and are therefore patentable for at least the reasons provided.

Claims 4 and 16 were rejected under 35 U.S.C. 103(a) as being obvious from Averbuch '825 in view of Shanahan '692, and further in view of Reed '375.

Claims 4 and 16 depend from claims 1 and 15 respectively, and are therefore believed to be patentable for at least the reasons as claims 1 and 15, as provided above.

Claims 22-23 and 27-28 were rejected under 35 U.S.C. 03(a) as being obvious from Averbuch '825 in view of Shanahan '692 and further in view of Averbuch '566.

These claims depend from claims 1 and 7 respectively, and are therefore believed to be patentable for at least the same reasons as claims 1 and 7, as provided above.

Accordingly, the application and claims are believed to be in condition for allowance, and favorable action is respectfully requested. No new matter has been added.

If any issues remain which may be resolved by telephonic communication, the Examiner is respectfully invited to contact the undersigned at the number below, if such will advance the application to allowance.

The Commissioner is hereby authorized to credit any overpayment or charge any fee (except the issue fee) to Account No. 14-1270.

Respectfully submitted,

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